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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,009	04/13/2001	Masanori Matsuura	OAC-012	3152

959 7590 02/05/2004

LAHIVE & COCKFIELD, LLP.  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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MASINICK, MICHAEL D

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/835,009

Applicant(s)

MATSUURA ET AL.

Examiner

Michael D Masinick

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10, and 13-19 is/are rejected.
- 7) ☒ Claim(s) 3, 7, 11, 12 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 1-20 are pending in this application.

Before stating rejections, examiner notes that the phrases "deletion of data" and "rewriting of new data" are taken to be the same. In the memory art, it is well known that the deletion of data in a memory device (RAM, ROM, Flash, etc) means the re-writing of that section of memory with either blank data (straight zeros) or garbage data in order to remove previous data. Since the functionality of these two phrases results in the re-writing of data, these claim elements are treated as equal.

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No.

6,405,279 to Kondo et al.

2. Referring to claims 1, 5, 9, 15, and 18, Kondo shows a rewriting device, system, and method for rewriting data stored in a memory of a vehicle controller: the rewriting device capable of communicating with the vehicle controller (Abstract) and configured to wait without communicating with the vehicle controller until a predetermined waiting time elapses from the time at which a signal for requesting deletion of the data is sent to the vehicle controller or from the time at which a signal indicative of start of deleting operation of the data is received from the vehicle controller (Figures 4 and 10). Examiner notes that column 2, lines 20-30 state that it is undesirable to attempt to communicate during this waiting time.

Art Unit: 2125

3. Referring to claims 2, 6, and 10, Kondo shows wherein the predetermined waiting time is the time necessary to delete the data stored in the memory (figures 5 and 10).

4. Referring to claim 14, Kondo shows wherein the memory includes a non-volatile memory (Col 1, line 45).

5. Referring to claims 16 and 19, Kondo shows when the waiting time has elapsed, sending a request for the result of the deleting operation to the vehicle controller (Figure 4, step S206).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 8, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,405,279 to Kondo et al in view of U.S. Patent No. 6,205,580 to Hirose.

8. Kondo does not show wherein the deleting time is calculated based on the size of the data and the specification of the memory.

9. Hirose shows a method for loading a program into memory where the time taken to load the file into the memory is calculated based upon the size of the file and the size of the memory devices.

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the memory loading calculations of Hirose in the memory changing system of

Art Unit: 2125

Kondo because it speeds up the memory rewriting process by using memory pointers and addressing information rather than the traditional memory allocation processing.

***Allowable Subject Matter***

11. Claims 3, 7, 11, 12, and 20 are objected to as being dependant upon a rejected claim, but would be considered allowable if rewritten in independent form.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and to the state of the art at the time of invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D Masinick whose telephone number is (703) 305-7738.

The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

mdm

• Application/Control Number: 09/835,009  
Art Unit: 2125

Page 5

*L. P. P.*